PACHULSKI STANG ZIEHL & JONES LLP Jeffrey N. Pomerantz (CA Bar No. 143717) John A. Morris (NY Bar No. 266326) Gregory V. Demo (NY Bar No. 5371992) Hayley R. Winograd (NY Bar No. 5612569) 10100 Santa Monica Blvd., 13th Floor Los Angeles, CA 90067

Telephone: (310) 277-6910 Facsimile: (310) 201-0760

Email: jpomerantz@pszjlaw.com jmorris@pszjlaw.com gdemo@pszjlaw.com hwinograd@pszjlaw.com

-and-

HAYWARD PLLC

Melissa S. Hayward (Texas Bar No. 24044908) Zachery Z. Annable (Texas Bar No. 24053075) 10501 N. Central Expy., Ste. 106

Dallas, Texas 75231

Telephone: (972) 755-7100 Facsimile: (972) 755-7110

Email: MHayward@HaywardFirm.com ZAnnable@HaywardFirm.com

Counsel for Highland Capital Management, L.P.

## IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

Right Adv. Proc. No. 21-3004

Structure of the structur

HIGHLAND CAPITAL MANAGEMENT, L.P.,	<b>§</b> <b>§</b>
Plaintiff,	§ Adv. Proc. No. 21-3005
VS.	§ §
NEXPOINT ADVISORS, L.P., JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST,	\$ Case No. 3:21-cv-00880-C
Defendants.	<b>§</b> <b>§</b>
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§ §
Plaintiff,	§ Adv. Proc. No. 21-3006
VS.	<b>§</b> <b>§</b>
HIGHLAND CAPITAL MANAGEMENT SERVICES, INC., JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST,	<pre>\$ Case No. 3:21-cv-01378-N \$ \$ \$</pre>
Defendants.	\$ \$
HIGHLAND CAPITAL MANAGEMENT, L.P.,	<b>\$</b> <b>\$</b>
Plaintiff,	§ Adv. Proc. No. 21-3007
VS.	§ Case No. 3:21-cv-01379-X
HCRE PARTNERS, LLC (n/k/a NexPoint Real Estate Partners, LLC), JAMES DONDERO, NANCY DONDERO, AND THE DUGABOY INVESTMENT TRUST,	\$ \$ \$ \$ \$ \$ \$ \$ \$ \$
Defendants.	§ §

DECLARATION OF JOHN A. MORRIS IN SUPPORT OF PLAINTIFF'S OMNIBUS MOTION (A) TO STRIKE CERTAIN DOCUMENTS AND ARGUMENTS FROM THE RECORD, (B) FOR SANCTIONS, AND (C) FOR AN ORDER OF CONTEMPT

- I, John A. Morris, pursuant to 28 U.S.C. § 1746, under penalty of perjury, declare as follows:
- 1. I am an attorney in the law firm of Pachulski, Stang, Ziehl & Jones LLP, counsel to Highland Capital Management, L.P., the reorganized debtor in the above-captioned chapter 11 case and plaintiff in the above-referenced adversary proceedings, and I submit this Declaration in support of *Plaintiff's Omnibus Motion (A) to Strike Certain Documents and Arguments from the Record, (B) for Sanctions, and (C) for an Order of Contempt* (the "Motion"). I submit this Declaration based on my personal knowledge and review of the documents listed below.
- 2. Attached as <u>Exhibit 1</u> is a true and correct copy of excerpts of *Defendants'*Memorandum of Law in Response to Plaintiff's Motion for Partial Summary Judgment (Adv. Pro. No. 21-3003, Docket No. 154) showing the portions subject to the Motion.
- 3. Attached as <u>Exhibit 2</u> is a true and correct copy of *Defendants' Brief in Opposition to Plaintiff's Motion for Partial Summary Judgment* (Adv. Pro. No. 21-3004, Docket No. 127) showing highlighted portions subject to the Motion.
- 4. Attached as <u>Exhibit 3</u> is a true and correct copy of the *Order Approving Stipulation and Agreed Order Governing Discovery and Other Pre-Trial Issues* (Adv. Pro. No. 21-3005, Docket No. 70).
- 5. Attached as <u>Exhibit 4</u> is a true and correct copy of the *Order Denying*Motions to Extend Expert Disclosure and Discovery Deadlines (Adv. Pro. No. 21-3005, Docket

  No. 138).
- 6. Attached as <u>Exhibit 5</u> is a true and correct copy of the *Brief in Support of Objection of NexPoint Advisors, L.P. to Order Denying Motions to Extend Expert Disclosure*

Case 21-03005-sgj Doc 163 Filed 02/07/22 Entered 02/07/22 20:26:49 Page 4 of 4

and Discovery Deadlines (Case No. 3:21-cv-00880-X, Docket No. 22 (N.D. Tex. Jan. 5,

2022)).

7. Attached as **Exhibit 6** is a true and correct copy of *Highland Capital* 

Management, L.P.'s Brief in Support of its Objection and Response to Objections to Order

Denying Motions to Extend Expert Disclosure and Discovery Deadlines (Case No. 3:21-cv-

00881-X, Docket No. 38 (N.D. Tex. Jan. 31, 2022)).

Attached as **Exhibit 7** is a true and correct copy of the transcript of the 8.

hearing held on January 10, 2022 (Adv. Pro. No. 21-3004).

9. Attached as **Exhibit 8** is a true and correct copy of the *Order Denying* 

Defendant's Second Motion for Leave to Amend Answer (Adv. Pro. No. 21-3004, Docket No.

123).

10. Attached as **Exhibit 9** is a true and correct copy of an e-mail string

between myself and various counsel regarding our intent to file a motion for contempt.

Dated: February 7, 2022

/s/ John A. Morris

John A. Morris